

BILL ANALYSIS

S.B. 12
By: Huffman
Criminal Procedure Reform, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Because of the nature of sex offenses committed against a child, there typically is very little evidence to assist prosecutors in proving these crimes. Interested parties note that victims, especially children, may be so scarred by the physical and emotional trauma of these crimes that there often are long delays in reporting the crime, which can lead to the destruction or deterioration of the physical evidence that exists. As a result, the only evidence in most child sexual abuse cases is the traumatized child's testimony. While evidence of other incidents of sexual abuse committed by a defendant against a child currently is allowed to be presented during the guilty or innocent phase of trial, evidence of other incidents of sexual abuse involving a different child or multiple children typically is allowed to be presented only after the prosecution obtains a conviction. Therefore, the jury often is left to make a decision regarding the defendant's guilt based on the testimony of the primary child victim and may not get a full picture of the abuse until the punishment phase of trial.

In an effort to provide prosecutors a necessary tool in proving a defendant's propensity for committing these type of crimes, S.B. 12 authorizes evidence of other sexual-related offenses allegedly committed by the defendant against a child to be admitted in the trial of certain sexual-related offenses for any bearing the evidence has on relevant matters.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 12 amends the Code of Criminal Procedure to authorize, in a trial of certain sexual-related offenses allegedly committed against a child or of an attempt or conspiracy to commit such offenses, the admission of evidence that the defendant has committed a separate such offense for any bearing the evidence has on relevant matters, including the character of the defendant and acts performed in conformity with the character of the defendant.

S.B. 12 requires the trial judge, before such evidence may be introduced, to determine that the evidence likely to be admitted at trial will be adequate to support a finding by the jury that the defendant committed the separate offense beyond a reasonable doubt and requires the judge to conduct a hearing out of the presence of the jury for that purpose.

S.B. 12 requires the state to give the defendant notice of the state's intent to introduce in the case in chief such evidence not later than the 30th day before the date of the defendant's trial and applies this deadline also to a notice of intent to introduce evidence of other crimes, wrongs, or acts committed against a child for its bearing on relevant matters in the trial of certain sexual assaultive, trafficking, and prostitution-related offenses allegedly committed against that child victim.

EFFECTIVE DATE

September 1, 2013.